

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION

JOHN RICHARD DRAE,

CIVIL No. 1:00-1091

(8) 8-4-
Sc

Plaintiff,

U.S. District Judge
Magistrate Judge Smyser

vs.

DR. ROBERT CLARK,
Chief Psychiatrist, MARTIN L.
DRAGONICA, JOHN A. PALAKOVICH,
ROBERT N. NOVOTNEY, MICHAEL J. KAZAR, and
JOHN ANDRADE
Defendants.

FILED
HARRISBURG, PA

AUG 3 2000

MARY E. D'ANDREA, CLERK
Per 9/8
Deputy Clerk

PLAINTIFF'S AMENDED COMPLAINT

COMES NOW, the Plaintiff & his Counsel in the above
CIVIL ACTION, John Richard Drae, a layman, lettered in
the Sciences of the Law & Legal Procedures within the United
States, pursuant to Fed. R. Civ. P., Rule 15(a), now files his
Plaintiff's Amended Complaint, herein, & avers, deposes & etc.

1. On or About June 2, 2000, Plaintiff John Richard
filed his 42 U.S.C. Section 1983 Civil Rights Complaint,
this above-captioned case, along with his Application
for Leave to Proceed In Forma Pauperis.

2. On June 21, 2000, this Court granted Plaintiff
leave to proceed in forma pauperis, herein this

3. Plaintiff John Richard Jue, now hereby amends his Initial Complaint, pursuant to Fed. Civ. P., Rule 15 (a), as a right.

4. Plaintiff Jue restates & realleges all the facts & legal claims set forth in his Initial Complaint herein, & amends such as now follows, below & inter

5. Plaintiff amends his Complaint to include as Party Defendants, herein, Mark L. Dragovich, Superintendent, SCT-Camp John A. Palakovich, Deputy Superintendent Centralized Services, Robert N. Novotney, Deputy Superintendent for Facilities Management, Michael J. Kazor, Inmate Registration and Classification Manager and John Andre Hearing Examiner, SCT-Camp Hill.

6. That, as stated in the Initial Complaint, Plaintiff Jue has and suffers from a long history of mental health illness disease.

7. That, as stated in the Initial Complaint, Plaintiff has been having mental illness relapse since February 15, 2000, and has tried to kill himself.

1/ See Plaintiff's Initial Complaint, herein, at Paragraph

2/ See id. at Paragraph 15-16.

8. That, on November 19, 1999, Plaintiff Joe was initially placed in the Restricted Housing Unit (RHU) at SCI-Cornwall and he has remained on Disciplinary custody in the RHU since November 22, 1999.

9. That, on or about February 17, 2000, February 2000, April 25 & 27, 2000, May 4, 2000, May 31, 2000, & June 5, 2000, Defendant Andrade found Plaintiff guilty of various Prison Misconducts which were a part of a pattern & a direct result of Plaintiff's mental health illness disease, despite the fact that he was fully aware that Plaintiff has a serious mental health illness disease.

10. That, on or about the above dates, Defendant Andrade sent the Plaintiff to Disciplinary custody status in the RHU for such various Prison Misconducts despite the fact that Plaintiff was fully aware that the Plaintiff has & suffers from a long &/or significant history of serious mental health illness disease.

11. That, despite the fact that Defendants Prager, Palatovich, Nafstrey & Kazar, were all fully aware that this Plaintiff had/has a long & lengthy significant mental health illness disease, they left Plaintiff confined in the RHU on DC status punitive segregation, & they were aware that, by law, they were not allowed to do

12. That, such has caused the Plaintiff to be confined under unconstitutional conditions & conditions where the R/HU officers tease & aggravate this Plaintiff.

13. That, it is Plaintiff's mental health illness disease which causes him to act out & misbehave.

14. That, back in 1998, Plaintiff's PNTs or Counselor up at SCI - Smithfield, wrote the Plaintiff back on an Inmate Request & told him that he was considered to be a mental health case with a mental health stability score of three (3) or above.

15. That, mental health illness disease is permanent and does not go away once plaintiff is a mental health case he is always such.

16. That, Plaintiff has been given many diagnoses over the years, but the ones that have been put forth with the most certainty the most times is: Borderline Personality Disorder, organic personality Disorder and Intermittent Explosive Disorder with poor impulse control.

17. That, on June 6, 2000, Plaintiff ~~John~~ was sent to the Special Assessment Unit (SAU) at the State Correctional Institution At Waymart ("SCI-Waymart") for a mental Health Evaluation and Recommendation.

18. On July 18, 2000, Plaintiff ~~John~~ was returned back to the RHU at SCI-Camp Hill from the SAU at SCI-Waymart.

19. That, although this Plaintiff ~~John~~ has not seen Waymart SAU's Report and Recommendation on him, on July 19, 2000, was informed by his Counselor, MR. Lee Kerstetter here, that Waymart SAU recommended that this Plaintiff ~~John~~ be transferred to & placed in the Special Management Unit (SMU) -

20. However, such a placement of Plaintiff ~~John~~ in the SMU would be & is ~~un~~unlawful, as this Plaintiff ~~John~~ has long & lengthy past significant history of serious mental health illness disease & by federal law cannot be placed & confined in a Special Management Unit (SMU).

AMENDED LEGAL CLAIMSFIRST CAUSE OF ACTION

21. That, the Acts, Actions & Conduct of Defendant Andrade, as is stated here in Paragraphs 9 & 10, constituted a wanton & deliberate indifference to Plaintiff's serious mental health illness disease in violation of the Eighth Amendment to the United States Constitution and Article I, §13, of the Pennsylvania State Constitution.

Second Cause of Action

22. That, the Acts, Actions & Conduct of Defendants Dragovich, Palakovich, Novatney & Kazan, as is stated herein Paragraph 11, supra, constituted a wanton & deliberate indifference to Plaintiff's serious mental health illness disease, in violation of the eighth amendment of the United States Constitution and Article I, §13, of the Pennsylvania State Constitution.

AMENDED REQUESTED RELIEF

WHEREFORE, PLAINTIFF John Richardson, prays that this Court will enter judgment in his favor & against the Defendants herein for the following relief:

A. A Declaratory Judgment that the Acts, Actions, Conduct & failures of Defendant Clark, Dragovich, Palakovich, Novatney, Kazan & Andrade, herein this case, violated Plaintiff's Rights under the law under the Eighth & Fourteenth Amendment.

of the United States Constitution; Articles
 § 13, of the Pennsylvania State Constitution
 and Pennsylvania State Tort Laws of Medical
 Malpractice & Medical Negligence.

B. Compensatory Damages against
 Defendants Clark, Dragovich, Palakarich, Nbo
 Kozar & Andrade & each of them, Jointly &
 severally in an amount to be determined
 at trial.

C. Punitive Damages against Defendants
 Dragovich, Palakarich, Nbo, Kozar & Andrade &
 each of them, jointly & severally in an amount
 to be determined at trial.

D. Exercise the Court's Pending Jurisdiction on
 Plaintiff's State Law Claims.

E. All Plaintiff's Court Costs, Filing Fees
 U.S. Marshal Service Fees & Plaintiff's Attorney's Fees.

F. A Trial By Jury on All Issues
 Claims, Herein.

G. Such Other And Further Relief As This Court
Deems Is Just, Proper & Equitable, Herein =

"AND COMPLAINT FURTHER SAYETH/NAUGA

AND HE SHALL EVER REMAIN
RESPECTFULLY SUBMITTED

(s) ~~John Richard Jae~~
MR. JOHN RICHARD JAE
Plaintiff and Pro Se Counsel

MR. John Richard Jae,
#BQ-3219

SCI-Camp Hill

P.O. Box 200

Camp Hill, PA-17001-0200

Signed this 31st day of July, 2000:

PROOF OF SERVICE

I certify that on 8/01/00 (date) I mailed a copy of this ^{Amended} ~~complaint~~ and all attachments via first class mail to the following parties at the addresses listed below:

~~_____~~
DR. Robert Clark, Chief Psychiatrist,
Martin L. Dragovitch,
John A. Palakovich,
Robert N. Novotney,
Michael J. Kazon,
John Andrade
State Correctional Institution At Camp Hill
P.O. Box 8837
Camp Hill, PA. 17001-8837

PROOF OF SERVICE FOR INSTITUTIONALIZED OR INCARCERATED LITIGANTS

In addition to the above proof of service all litigants who are currently institutionalized or incarcerated should include the following statement on all documents to be filed with this Court:

I certify that this document was given to prison officials on 8/01/00 (date) for forwarding to this court. I certify under penalty of perjury that the foregoing is true and correct. 28 U.S.C. §1746.

(s) John Richard Jae
Signature MR. JOHN RICHARD JAE,
Plaintiff and Pro Se Counsel -

Mr. John Richard Jae,
#BR-2219

SCI- ~~_____~~ Camp Hill
P.O. Box ~~_____~~ 200

~~_____~~
Camp Hill, PA. 17001-0200

Executed/Date:
1st AUGUST 2000

At: ~~_____~~ Camp Hill, Pennsylvania:

From The Desk of
Mr. John Richard Jae,
#BA-3219
Sgt - Camp Hill
P.O. Box 200
Camp Hill, PA 17001-0200
August 1, 2000

To: The Office of the Clerk,
United States District Court
228 Walnut Street
P.O. Box 983
Harrisburg, PA 17108-0983

Re: Jae v. Clark,
CIVIL No. 1:CV-00-1090

Dear Clerk:

Please file the Enclosed Plaintiff's
Amended Complaint (as a right pursuant to
Fed. R. CIV. P. Rule 15(a)), herein the above-entitled
CIVIL Action, and please correct the caption
of this here case to include Martin L.
Dragovich, John A. Palakovich, Robert N.
Novotney, Michael J. Kazar, & John Andrade
as Party Defendants herein the above-
captioned case:

Sincerely,

cc: Dr. Robert Clark,
Martin L. Dragovich,
John A. Palakovich,
Robert N. Novotney,
Michael J. Kazar,
John Andrade,
w/enc.

(s) ~~John Richard Jae~~
MR. JOHN RICHARD JAE
Plaintiff and as Se Cause